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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/625,889	07/26/2000	Ted Chongpi Lee	LEE 4	8036

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EXAMINER

SOBUTKA, PHILIP

ART UNIT PAPER NUMBER

2684

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/625,889

Applicant(s)

LEE, TED CHONGPI

Examiner

Philip J Sobutka

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 December 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. Claims 1,5,9,11 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Lauer et al. (U.S. Patent No. 6,1 18,936).

Regarding claim 1, Lauer discloses a method for managing adjunct access for a circuit in a network management system. The method comprises providing a manageable link (a linkset) representing each non-managed portion of the circuit (non-IEC nodes), responsive to a determination that a non-managed portion of the circuit exists (See Figures 8b, 8c and 8e; col. 4, lines 33-48; col. 13, line 55 through col. 14, line 9; and col. 14, lines 18-29).

Regarding claim 5, Lauer discloses a method for designing a continuous circuit. The method comprises determining a non-managed portion (non-IEC node) of a circuit exists, and providing a link (linkset) between each non-managed portion of the circuit and a proximate managed portions (IEC nodes) of the circuit. The link may be characterized as a managed carrier link by a network management system (SNMS). See Figures 8b, 8c and 8e; col. 4, lines 33-48., col. 13, line 55 through col. 14, line 9., and col. 14, lines 18-29.

Regarding claim 9, Lauer discloses a method comprising assigning links (linksets) bridging non-managed portions (non-IEC nodes) of a circuit path. It is inherent that the circuit path is created after a request to provision a circuit is received, and the circuit path is selected within a network comprising a plurality of network elements (IEC and non-IEC nodes). The assigned links may be characterized as managed carrier links

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(See Figures 8b, 8c and 8e; col. 4, lines 33-48; col. 13, line 55 through col. 14, line 9; and col. 14, lines 18-29).

Regarding claim 11, Lauer discloses all of the limitations of claim 9, and also discloses that the non-managed portions of the network comprise adjunct access facilities (LATA facilities) (See col. 14, lines 18-29).

Regarding claim 12, Lauer discloses an apparatus (SNMS servers 302/304/306/308) for designing a continuous circuit inherently comprising a processor and an associated storage device including instructions for controlling the processor (See col 4, lines 33-48). The instructions cause the processor to determine whether a non-managed portion (non-IEC node) of a circuit exists, and to provide a link (a linkset) between non-managed portions of the circuit and proximate managed portions (IEC nodes) of the circuit. The link may be characterized as a managed carrier link by a network management system (SNMS 300) (See Figures 8b, 8c and 8e; col. 13, line 55 through col. 14, line 9; and col 14, lines 18-29).

### ***Claim Rejections - 35 USC § 103***

2. Claims 2-4, 6-8, 10 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lauer et al. in view of Dodd (Annabel Z. Dodd, 'The Essential Guide to Telecommunications,' 1998, pp. 144-145.).

Regarding claims 2, 6, 10 and 13, Lauer discloses all of the limitations of claims 1, 5, 9 and 12, but does not disclose that each manageable link is coupled to at least one of a Digital Cross Connect, a Light Wave Guided Cross Connect, and a Distribution Drop Point. However, Dodd teaches that it is well known in the art to use a Digital Cross

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Connect in a communications network to couple multiple end users to a single T-1 circuit, thereby allowing efficient use of circuit resources (Annabel Z. Dodd, 'The Essential Guide to Telecommunications,' 1998, pp. 144-145.). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Lauer as taught by Dodd, such that each manageable link is coupled to a Digital Cross Connect, in order to efficiently use circuit resources.

Regarding claims 3, 7 and 14, Lauer in view of Dodd teaches all of the limitations of claims 2, 6 and 13, and Lauer also discloses that each manageable link comprises a fiber optic cable (See col 2, lines 55-57).

Regarding claims 4, 8 and 15, Lauer in view of Dodd teaches all of the limitations of claims 2, 6 and 13, and Lauer also discloses that the links comprise a digital carrier (See col. 8, lines 45-61).

### ***Response to Arguments***

3. Applicant's arguments filed 01 April 2005 have been fully considered but they are not persuasive.

Examiner maintains the objection raised in previous actions, namely that the claim language regarding management of "non-managed" links is almost non-sensical in its essential contradiction. To quote from the previous action:

"It should first be noted that by definition a manageable link, cannot be a non-managed link. Quoting from claim 1, what is being claimed is a manageable link **"representing"** each non-managed portion of the circuit" (emphasis added). To quote

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from the instant specification on page 7 "The invention operates to characterize the non-managed portion as a manageable network element..." (emphasis added).

Therefore the instant invention does not *replace* the non-managed portions, it merely *represents* them. Thus the instant claims cannot distinguish over Lauer's representation of the non-managed links as described in the previous response to arguments and repeated below.

Regarding claims 1, 5, 9, and 12, Applicant states, "As clearly evident from at least the portions of Lauer cited above, there is absolutely no teaching, suggestion or disclosure in Lauer for 'providing a respective manageable link ...". Note in addition to the cited sections, Lauer's intended invention is to provide the capability to collect network topology, traffic, performance and fault information (column 3, lines 31 –40) and further of receiving data from foreign networks (column 10, lines 15 –35; further note here that such networks can be LEC or international carriers, potentially adjunct or a part of the network not necessarily apart of the originally defined network). Further note that manageable, as defined by Merriam-Webster's 10<sup>th</sup> Edition, describes something that is capable of being managed (managed defined as to handle or direct with a degree of skill: as to make and keep compliant). Note that Lauer, in the above sections, performs these functions, for example since network topology, traffic, and other network performance and compliance criteria are observed (again for example, column 10, lines 15 –18 where alarm data are monitored). Note further that as traffic is flowing a completed circuit is inherent (column 2, lines 35–56). Hence, Examiner is not

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persuaded by Applicant's arguments that the reference does not teach or recite the claimed as broadly interpreted."

In addition applicant's attempts to "clarify" the claim language's term non-managed, by quoting and expanding on the specification for pages, clearly recites much more specific language than is now present in the claims. It is not at all clear how one of ordinary skill would be able to determine the metes and bounds of the claims from the proposed definitions.

### ***Conclusion***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 571-272-7882.

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7. The current fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

On July 15, 2005, the Central FAX Number will change to **571-273-8300**. This new Central FAX Number is the result of relocating the Central FAX server to the Office's Alexandria, Virginia campus.

Most facsimile-transmitted patent application related correspondence is required to be sent to the Central FAX Number. To give customers time to adjust to the new Central FAX Number, faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and **571-273-8300** will be the only facsimile number recognized for "centralized delivery".

**CENTRALIZED DELIVERY POLICY:** For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), and facsimile transmissions must be sent to the Central FAX number, unless an exception applies. For example, if the examiner has rejected claims in a regular U.S. patent application, and the reply to the examiner's Office action is desired to be transmitted by facsimile rather than mailed, the reply must be sent to the Central FAX Number.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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